IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL NO.827 OF 2003

IN

ARBITRATION PETITION NO.151 OF 2003

...

Maharashtra Film, Stage & Cultural
Development Corporation Ltd. ...Appellant

v/s.

Mr.Shahab Ahmed & ors. ...Respondents

...

Mr.R.S.Apte i/b N.R.Bubna for the Appellant.

Mr.B.R.Vishwakarma i/b G.H.Hiranandani for the Respondent No.1.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 10TH OCTOBER, 2007

P.C.:

1. By this Appeal, the Appellant challenges the order dated 17th April, 2003 passed in Arbitration Petition No.151 of 2003 passed by the learned single Judge of this Court granting interim relief in favour of the Respondents.

2. The order has been made under the provisions Section 9 of the Arbitration & Conciliation Act, 1996. It is an admitted position that the Arbitrator was appointed and the disputes between the parties were referred to the arbitrator. But the Respondents did not pay the fees of the arbitrator. Therefore, the arbitrator resigned in April, 2007. From April, 2007 till today, no steps have been taken by the Respondents to have either the same arbitrator resuming the proceedings or to have the new arbitrator appointed.

3. The learned Counsel appearing for the Respondent No.1 candidly stated that the Respondent does not have any money and therefore, he could not take steps

to have the arbitral tribunal constituted. He, however, submits that within a period of one month from today, he will be able to get the arbitral tribunal constituted. One more aspect that is to be noted is under Section 17 of the Arbitration & Conciliation Act, power is conferred on the Arbitrator also to consider an application for grant of interim relief. In these circumstances, therefore, in our opinion, following order would meet the ends of justice.

O R D E R

(i) Appeal is allowed. The order impugned in the Appeal is set aside.

(ii) It is, however, made clear that the Respondents shall be at liberty to apply for the same relief before the learned Arbitrator and in case such an application is made, the Arbitrator shall consider that application on its own merits on the basis of the material produced before the Arbitrator without being influenced by the order impugned in the Appeal or by this order.

(iii) Despite the disposal of the Appeal, the order dated 17th April, 2003 passed in Arbitration Petition No.151 of 2003 shall continue to operate for a period of four weeks from today. It is made clear that if the order is not continued or other suitable order is not made by the Arbitrator, the order will automatically cease to operate.

(iv) Appeal disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)